

DISTRICT OF COLUMBIA COURT OF APPEALS

NOTICE TO COUNSEL

PROCEDURES FOR ADVANCE APPROVAL OF TRAVEL TIME AND EXPENSES

The purpose of this notice is to set forth the procedures to be followed when an attorney appointed to represent an incarcerated client on appeal pursuant to the Criminal Justice Act (CJA) believes it to be necessary to travel outside the District of Columbia area in order to confer with the client. In almost all cases, telephone and mail contact will enable the attorney to obtain from the client all of the information needed in order to prosecute the appeal. Travel outside the District of Columbia area to confer with incarcerated clients therefore will be approved only in exceptional circumstances. Counsel shall seek advance approval from the court for all such travel.

Appellate counsel appointed under the CJA should immediately contact the client by mail or by telephone upon receiving notice of the appointment. The initiation of prompt contact will enable the client to notify counsel at once in the event that the client is transferred to a facility outside the District of Columbia area. In most instances, this will obviate the need for travel.

If, in the opinion of appellate counsel, exceptional circumstances exist which render communication with the client by mail or telephone insufficient, so that a face-to-face meeting is necessary for the conscientious prosecution of the appeal, counsel should first file a motion pursuant to Super. Ct. Crim. R. 38 (a)(2) and request that the client be retained in, or returned to, the Washington, D.C. area. If the client's presence cannot be secured through such a motion, then counsel may ask this court to grant advance approval for travel. In support of such a request, counsel should set forth, *inter alia*:

1. The reason or reasons why a face-to-face meeting with the client is necessary and why communication by mail or by telephone is insufficient.
2. The efforts made by counsel to secure the client's return to a local facility.
3. An estimate of anticipated travel and lodging expenses. Counsel will be reimbursed only for those expenses which have been reasonably incurred, and counsel's estimate should be prepared accordingly. Travel by private automobile will be compensated at the prevailing rate for federal judicial employees who use this form of transportation. Counsel will also be reimbursed for necessary incidental expenses, such as parking fees, ferry fares, and bridge, road and tunnel tolls. Transportation by means other than private automobile should be estimated on an actual expense basis.
4. An estimate of the time for which counsel expects to seek compensation. Counsel will be compensated at the prevailing CJA rate for time reasonably spent in transit or in awaiting transportation in connection with previously approved travel. If meals and overnight lodging are required, counsel will be reimbursed for reasonable expenditures.

The court's approval of an attorney's application for leave to travel does not constitute advance approval of counsel's actual expenses. The amount of reimbursement to which an

attorney is entitled will ordinarily be determined upon the submission of a voucher at the conclusion of the representation. *See* D.C. Code §11-2604 (a) (2001). Interim reimbursement may be authorized in extraordinary cases in which counsel's travel-related expenses exceed \$500.